

Central Intelligence Agency



Washington, D.C. 20505

A Registry

84-0602

28 FEB 1984

The Honorable George Bush  
President of the Senate  
Washington, D.C. 20510

Dear Mr. President:

Submitted herewith, pursuant to the provisions of 5 U.S.C. 552(d), is the report of the Central Intelligence Agency concerning its administration of the Freedom of Information Act (FOIA) during calendar year 1983.

During 1983, 2,466 requests for information were logged and put into processing by the Agency, of which 1,266 were handled under the Freedom of Information Act. Several hundred additional request letters were received during the year but not formally processed pending receipt of additional information from the requesters. These incomplete requests were, with but one or two exceptions, requests for access to personal records, which, under the Agency's regulations, are usually processed under the provisions of the Privacy Act of 1974 (5 U.S.C. 522a) rather than the Freedom of Information Act. Production/workload statistics for CY 1983 are enclosed at Tab A.

During CY 1983 the number of requests for information increased by 188 over 1982. Despite the heavy demand to focus our resources on world intelligence problems, we were still able to devote the equivalent  full-time employees to the effort. The dollar cost for personnel alone to sustain this effort amounted to over \$3.75 million. Of this total, \$2.8 million was devoted to FOIA. We have not factored in the cost of space and equipment needed to support our FOIA/PA activities. This cost continues to increase as we strive to improve our efficiency in processing these requests. For example, during the past year, more efficient word processors were purchased to increase the production and timeliness of our responses to requesters. We have also designed some enhancements to our computer tracking system to help us monitor requests more effectively. Despite our efforts, the backlog, which was on the decline early in the year, climbed to 407 above the year-end figure for 1982--a 15 percent increase. We attribute this mainly to a heavy volume of requests received during the latter half of the year, the complexity of those

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84-0602

The Honorable Thomas P. O'Neill  
Speaker of the House of Representatives  
Washington, D.C. 20515

Dear Mr. Speaker:

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During 1983, 2,466 requests for information were logged and put into processing by the Agency, of which 1,266 were handled under the Freedom of Information Act. Several hundred additional request letters were received during the year but not formally processed pending receipt of additional information from the requesters. These incomplete requests were, with but one or two exceptions, requests for access to personal records, which, under the Agency's regulations, are usually processed under the provisions of the Privacy Act of 1974 (5 U.S.C. 522a) rather than the Freedom of Information Act. Production/workload statistics for CY 1983 are enclosed at Tab A.

During CY 1983 the number of requests for information increased by 188 over 1982. Despite the heavy demand to focus our resources on world intelligence problems, we were still able to devote the equivalent  full-time employees to the effort. The dollar cost for personnel alone to sustain this effort amounted to over \$3.75 million. Of this total, \$2.8 million was devoted to FOIA. We have not factored in the cost of space and equipment needed to support our FOIA/PA activities. This cost continues to increase as we strive to improve our efficiency in processing these requests. For example, during the past year, more efficient word processors were purchased to increase the production and timeliness of our responses to requesters. We have also designed some enhancements to our computer tracking system to help us monitor requests more effectively. Despite our efforts, the backlog, which was on the decline early in the year, climbed to 407 above the year-end figure for 1982--a 15 percent increase. We attribute this mainly to a heavy volume of requests received during the latter half of the year, the complexity of those

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requests, and an increased emphasis on training of personnel responsible for FOIA processing. We did, however, see a continued reduction in cases awaiting processing as administrative appeals. The appeal backlog was reduced by 48 cases; at the end of 1983 it stood at 115 open appeals.

The principal difficulty the Act poses for the Agency is its effect on our intelligence collection effort, as Director Casey and other senior officials have stated on numerous occasions. To operate effectively as a foreign intelligence gathering organization, we must be able to enlist the cooperation of individuals and foreign governments. Many potential sources have refused this cooperation considering the risk of inadvertent disclosure too great, in part because our records--even the most sensitive ones--are subject to the provisions of FOIA. We can and do assure our sources that the Act provides exemptions to protect from disclosure both classified material and information relating to intelligence sources and methods and that we employ multiple layers of review to further ensure protection. Some, however, remain unconvinced. Many are aware that there is the risk of error, and, despite the elaborate precautions, mistakes have been made resulting in the release of classified or sensitive information. Furthermore, the more knowledgeable know that courts do review Agency classification decisions and that the potential exists for the Agency to be overruled.

In addition to the impact on our intelligence collection activity because of concern on the part of our sources, our liaison relationships with foreign intelligence services have suffered. Deputy Director John McMahon recently told a Congressional committee that our overseas representatives continue to report consternation on the part of these services over what is seen as a potential legal requirement to disclose information entrusted to us.

Furthermore, the administrative burden to the Agency over the past years has been considerable. Since 1975 we estimate that the Agency has expended over \$25 million in just personnel costs for processing all requests for information--\$13.7 million for FOIA. The benefit to the public resulting from this expenditure has been, overall, marginal at best. To be sure, some of the information released has benefited selected segments of the public. For instance, scholars and some members of the news media have found useful the release of some finished intelligence studies and OSS records. Most records held by CIA, however, remain classified under the criteria of Executive Order 12356 or predecessor Orders and/or involve intelligence sources and methods. As such, this information is exempted from access under the Freedom of Information Act.

When feasible, segregable portions of otherwise exempt records are released, but the public benefit arising from the disclosure of fragmentary and often incomplete raw intelligence is dubious, and the result is sometimes even misleading. The provisions of the Act which permit the Agency to charge fees for record searches and for duplication are grossly inadequate for recovering even minimal costs. For all years, the Agency has collected a total of \$85,024 in fees. When compared with expenditures for administering just the FOIA, this amounts to slightly over one-half cent collected for every dollar spent. Because of the number of fee waivers or fee reductions granted, even under the January 1983 guidelines, the Agency was able to collect only \$8,817.10 in fees and advance deposits during CY 1983. This represents a decrease of 21 percent compared with CY 1982 collections. Nevertheless, with review time constituting our greatest cost, FOIA processing can never become anywhere near self-supporting.

As explained in earlier reports, the Agency also faces some real problems in seeking to meet the time deadlines stipulated in the Act, and we believe these complicating factors are worth repeating. Because of the decentralized character of our systems of records, a number of files and indices must usually be searched to process a typical request. For example, a reasonably simple request may require as many as 21 records systems to be searched, a complex request over 100 systems. Whenever relevant records are located, these must be reviewed with painstaking care by knowledgeable officers of the CIA to ensure no information is released which might damage national security, harm U.S. foreign relations, or reveal the identities of intelligence sources or methods. This critical analysis requires the expenditure of an inordinate amount of manpower. Moreover, it cannot be entrusted to FOIA officers hired just for the purpose of review, as is done in other agencies. Rather, this analysis and review requires the exercise of careful judgment by professional intelligence officers who have primary responsibility for vital programs of intelligence collection and analysis for the President and other policy-makers. Experienced operations officers and analysts cannot be easily or readily acquired on the open market. It takes years of experience and training to develop a top-quality intelligence officer. Resources the Agency allocates to the administration of the FOIA are in competition with priority intelligence requirements. Intelligence officers must necessarily be diverted from their primary duties to review material responsive to FOIA requests. If the volume of requests were to decline sufficiently to enable us to reduce our backlog, we could probably improve our response time considerably. Given the configuration of Agency records systems, the number of systems that must be searched, and the

level at which records must be carefully reviewed for release, however, it is doubtful that the Agency will ever be in a position to respond to FOIA requests within the time limits set by the Act. We continue to look for ways to make our processing more efficient, and in an effort to be fair to all, we have continued to follow the policy of handling requests on a first-received, first-processed basis. Unless a request essentially duplicates a previous request, long delays are inevitable under this policy. Some requesters, understandably impatient over the lack of response, file administrative appeals or go into early litigation, thereby further burdening the Agency as other resources are tasked to meet the priority demands of litigation.

In summary, the negative perceptions on the part of potential sources, the diversion of expertise from our primary mission, the cost, the time constraints required by FOIA, and the impact on our liaison relationships are the major problems we face in complying with the FOIA. Nevertheless, we believe the Agency's performance is a conscientious one, and we continue to look for ways in which it can be improved without impairing national security.

Sincerely,

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~~Harry~~ E. Fitzwater  
Deputy Director  
for  
Administration

Enclosures